

EXHIBIT A

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF OHIO

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4 A. PHILIP RANDOLPH

5 INSTITUTE OF OHIO, et. al.,

6
7 Plaintiffs,

8
9 vs. Case No. 1:20-cv-1908

10
11 FRANK LaROSE, in his
12 official capacity as
13 Ohio Secretary of State,

14
15 Defendant.

16 ~~~~~
17 Zoom Videoconference Deposition of

18 CALEB FAUX

19
20 September 11, 2020
4:42 p.m.

21 Witness location:
22 7600 Sagamore Drive
Cincinnati, Ohio

23 Buster Beck, RPR

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1 APPEARANCES:

2

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EXHIBIT CUSTODY

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NO EXHIBITS MARKED

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1 CALEB FAUX, of lawful age, called
2 for examination, as provided by the Federal
3 Rules of Civil Procedure, being by me first
4 duly sworn, as hereinafter certified, deposed
5 and said as follows:

6 EXAMINATION OF CALEB FAUX

7 BY MR. SLIWINSKI:

8 Q. Good afternoon, Mr. Faux. How are
9 you?

10 A. Very well. How are you?

11 Q. I'm doing well. Thank you for your
12 patience and thank you for being here today.
13 We appreciate it.

14 So just to start off, I understand
15 your last name is pronounced Faux?

16 A. That's correct.

17 Q. I want to make sure I get that
18 right.

19 And Mr. Faux, have you ever had
20 your deposition taken before?

21 A. Yes, I have.

22 Q. Okay. So I assume, then, you are
23 familiar with the need -- even though this is
24 being taken over Zoom, we still need verbal
25 answers to questions, and I'd ask you to wait

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1 until I'm done with a question before you
2 answer. Do you understand all that?

3 A. I do.

4 Q. Do you have -- and if there's
5 anything that's not clear that I ask you, if
6 you could just stop me and I'll do my best to
7 clarify it; fair enough?

8 A. Fair enough.

9 Q. And of course, if you need a break,
10 just let us know and we'll take a quick break;
11 all right?

12 A. Okay.

13 Q. Mr. Faux, what is your current
14 occupation?

15 A. Aside from my duties on the Board
16 of Elections, I am retired.

17 Q. You're retired?

18 A. Yes.

19 Q. Okay. And you said you were on the
20 county -- your affidavit states that you're on
21 the County Board of Elections in Hamilton
22 County; that's correct?

23 A. That's correct, yes.

24 Q. And how long have you been on that
25 board of elections?

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1 A. I took office in March of 2010, so
2 roughly 10 and a half years.

3 Q. And could you describe for me what
4 your duties are as a member of the Board of
5 Elections at Hamilton County?

6 A. It's the same as any other Board of
7 Elections. We oversee the operation of
8 elections here in Hamilton County.

9 Q. And you have a director of the

10 Board of Elections, I imagine?

11 A. Yes, we do.

12 Q. And what are -- I guess what I'm
13 getting at is, what are some of the differences
14 between what the director would be able to
15 handle and what would require a -- the Board's
16 approval.

17 A. Well, the director and the deputy
18 director are basically in a position of
19 supervising the staff and overseeing daily
20 operations of the Board of Elections. There
21 are many occasions where there are things that
22 do require the approval in a vote for the Board
23 of Elections. We also oversee the hiring of
24 staff. The way that works is, the two
25 Democrats oversee the Democratic employees and

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1 the two Republicans on the Board, vice versa.

2 Q. When it comes to spending money at
3 the Board, is there any requirement to get
4 Board approval if it's, say over a certain
5 amount?

6 A. We do vote on budgets and on
7 expenditures, yes, sir.

8 Q. Is there an amount that the
9 director could spend without Board approval?
10 For instance, I would imagine if he's got to go
11 out and get copy paper, he can do that without
12 Board approval. Is there a set amount that he
13 would be able to spend?

14 A. In this case, it's a she, but I
15 can't say I specifically know the answers to
16 that question.

17 Q. Fair enough.
18 And are you familiar with the
19 different ways there are to vote in the State
20 of Ohio?

21 A. Yes, I am.

22 Q. And what different ways can
23 somebody vote in the State of Ohio?

24 A. First of all, they can vote in
25 person on election day. They can vote in

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10

1 person at the Board of Elections during the
2 early vote period; this year that will begin on
3 October 6th. Or, they can vote absentee.

4 Q. And is my understanding correct
5 that if they vote in person on election day

6 they have to go to their polling location?

7 A. That's correct.

8 Q. Okay. And is there also an option
9 for somebody who perhaps is handicapped or for
10 some reason can't go into the polling location,
11 is there a curbside option available?

12 A. Yes, there is. And I should also
13 add, similarly, that for people who are
14 confined to nursing homes or are not able to
15 get to the polls, we do send a team of one
16 Democrat and one Republican to those locations
17 to allow people to vote from their beds in many
18 occasions. But yes, we do allow for curbside
19 voting.

20 Q. Okay. And the nursing home and
21 hospital procedure you just described, that
22 would be similar to early in-person voting and
23 the fact that even though you're filling out
24 your ballot in front of somebody, it's still
25 considered an absentee, right?

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11

1 A. That's correct.

2 Q. So aside from those two options,
3 what other ways are there to return your

4 absentee ballot to the Board of Elections?

5 A. First of all, you can walk in the
6 door and hand it to the staff, and that is
7 considered putting it in the possession of the
8 director of the Board of Elections. You can
9 mail it. And you can also put it in our drop
10 box, which we've had now for a little over
11 eight years, and that also is considered to
12 have been put in the possession of the director
13 of the Board of Elections.

14 Q. Okay. And how many drop boxes do
15 you have at the Hamilton County Board of
16 Elections?

17 A. We have one outside the front door,
18 it's a drive-up box. And then, there's also a
19 box just inside the front door if people want
20 to walk in the front door and drop their ballot
21 in that box. So basically two. But they're
22 both on the premises at the Board of Elections.

23 Q. And the drive-up drop box -- I'm
24 not from Hamilton County, so I'm not familiar
25 with the area where your Board of Elections is.

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1 I looked it up on a Google map, and it appeared

2 to be almost -- the building is almost like a C
3 shape. There's -- behind the building there's,
4 like, some sort of recess or -- I couldn't
5 quite tell if there was a public road that went
6 through there or --

7 A. No. There's not a public road.
8 There are two buildings there, they're kind of
9 -- each is kind of a U shape or C shape, back
10 to back. The Board of Elections right now
11 occupies the entirety of the southern building.
12 And we are temporarily leasing space in the
13 other building for this election for the
14 purpose of early voting. Our drop box is not
15 too far from the main front door of the Board
16 of Elections; it's a drive-up box that's in the
17 parking lot. Somebody can drive through, and
18 there is an outlet onto the street not far from
19 there.

20 Q. Okay. And I think that may answer
21 my question. So your Board of Elections is
22 located on Smith Road, correct?

23 A. That's right.

24 Q. Okay. And so, the drop box, is
25 that in front of the building on the Smith Road

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1 side, or is it on the opposite side of the
2 building, I think you said back by the parking
3 lot?

4 A. It's basically on the Smith Road
5 side of the building, yes.

6 Q. Okay. And we talked about the
7 different way that you can return an absentee
8 ballot. And I noticed in your affidavit you
9 said voters cannot return a voted absentee
10 ballot to a precinct polling location; is that
11 accurate?

12 A. That is accurate, yes.

13 Q. Have you run into situations since
14 you've been a Board member where you've had
15 people that have tried to return them to the
16 polling location?

17 A. Not that I can recall, no.

18 Q. And in past elections, have you had
19 any kind of issues at all with the location or
20 access to or traffic jams with your drop box?

21 A. No. The only time we've really had
22 a problem with that was in April of this year
23 at the primary. In the past, that's run pretty
24 smoothly. We've really never had any problem

25 with the drop box at our current location,

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1 which we've been at now for a little over two
2 years. Actually, maybe three. We had a drop
3 box in our previous location, we didn't have
4 any problems with that one either.

5 Q. Okay. And in your affidavit you
6 describe a problem on April 28th where there
7 was a point that in the early evening there
8 were lines of cars waiting to get into the drop
9 box, the lines extended onto the four-lane
10 highway.

11 A. Yeah.

12 Q. And that was -- you described it as
13 on April 28th; was that the last day or voting?

14 A. Yes, that was. The deadline to
15 return the ballot to the drop box was 7:30 that
16 evening. Our location is immediately adjacent
17 to State Route 62, it's a four-lane highway
18 locally known as the Norwood Lateral. But
19 there was traffic backed up for quite some
20 distance both eastbound and westbound, trying
21 to get off of that four-lane highway to deliver
22 ballots to the Board of Elections.

23 Q. Did you --

24 A. I should clarify.

25 By the time it got to 7:30, that

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1 line had died down and no longer extended out
2 onto the four-lane highway, it extended out
3 onto the street in front of our building. So
4 it went well beyond the parking lot, but it was
5 no longer out to the four-lane highway.

6 Q. Okay. And did you have any issues
7 like that on any other days during the March
8 primary?

9 A. Not that I know of.

10 Q. Okay. And how many days can
11 somebody return an absentee ballot to the Board
12 of Elections? How many days of early voting is
13 there?

14 A. Well, normally it's 30 days. So in
15 this case, early voting will begin on October
16 6th. Ballots will go in the mail. It will
17 probably take four or five days before people
18 get those. So it's a little less than 30 days
19 for most people. And of course this year is
20 going to depend a little bit on the performance

21 of the post office.

22 Q. So -- and actually, in the March
23 primary, just because of the way it occurred,
24 people would have had that 25 to 30 days prior
25 to March 17th as well as anything from March
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1 17th to April 28th; is that correct?

2 A. Yeah. First of all, they would
3 have had the 30 days prior to March 17th. And
4 then, secondly, there was a little bit of
5 confusion for a few days there after March 18th
6 while the legislature tried to sort out what
7 was going to happen. But in essence, yes,
8 there was roughly another 30-day period there
9 where people could return their ballot to the
10 Board. So prior to the 28th they could have
11 brought it back.

12 Q. Okay. And then -- and just to -- I
13 just want to make sure I heard you correctly.
14 You said that April 28th was the only day that
15 you had the problem with the car lines?

16 A. Car lines extending off of our
17 property, that I know of.

18 Q. Fair enough.

19 Now, have you guys looked into any
20 ideas or had any thoughts about different ways
21 to deal with the traffic in the upcoming
22 general election?

23 A. Well, we are in the jurisdiction of
24 the City of Norwood, so we are working with the
25 police department to try and make sure that we

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1 have police officers out there to help manage
2 the traffic that will take place. I say in my
3 affidavit, and I think it's true, that the
4 normal practice at the polling place is that an
5 election official is placed at the end of the
6 line, wherever that line extends to at the
7 polling location, so that anybody who's in line
8 at 7:30 is still permitted to go into the
9 polling place and cast their ballot.

10 Similarly with the line of cars
11 trying to get to that drop box, we send an
12 elections official out there to mark the end of
13 that line so that we could ensure that
14 everybody who was waiting in that line at 7:30
15 was able to deliver their ballot.

16 I would add that part of what

17 happened there was that in order to move that
18 line more quickly, we basically put a team of
19 one Republican and one Democrat at another
20 location in the lot so that the line coming
21 onto our property was split, and they were just
22 simply taking their ballot and putting it into
23 a plastic mail tray, if you will. And the same
24 was true where the drop box was. So in
25 essence, at that point, the ballots were never

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1 getting to the drop box, they were going into
2 this plastic bin. But they were being taken by
3 one Democrat and one Republican.

4 Q. So once you started doing that, is
5 that what kind of helped improve the flow of
6 traffic so that you could get to the 7:30 point
7 without still spilling onto the freeway?

8 A. Yes. That did help manage the
9 line.

10 My concern in my affidavit -- and I
11 very -- I'm very concerned about this, is that
12 the volume of people voting in that primary was
13 fairly modest compared to what we're going to
14 see in November. In fact, I think we had about

15 138,000 ballots cast in the primary in Hamilton
16 County. About 33,000 of those were cast prior
17 to the March 17th or in that original period.
18 So slightly over 100,000 ballots were cast in
19 the interim between the 17th and the 28th.

20 We're very likely to have 480,000
21 ballots cast in November. And so,
22 correspondingly, the pressure on that drop box
23 is going to be much, much greater than it was
24 in April. And given the amount of concern
25 people have about what's going on with the post
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1 office, I expect a lot more people to be trying
2 to utilize that drop box than we would normally
3 see.

4 Q. So when you say there's likely to
5 be 480,000 votes, what do you -- how do you
6 come up with that number?

7 A. It's just based on what we've seen
8 in past presidential elections. We have
9 roughly 600,000 registered voters in Hamilton
10 County. So based on past turnout, I think
11 that's a reasonable projection. I think our
12 director and deputy director, they both floated

13 numbers along those lines. So it could go
14 higher. I doubt it will be much less. But
15 that would be reflective of what we have seen
16 here in Hamilton County in presidential years.

17 Q. And going back to the drop boxes,
18 if you could -- if you know, how long does it
19 take to drop a ballot in the drop box?

20 A. Just a second or two. It's very
21 easy.

22 Q. And then -- and that was before you
23 had the teams out there with the mailboxes --
24 the plastic mail cartons?

25 A. Yes.

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1 Q. So once they did that, then I
2 imagine it went a lot faster?

3 A. Yeah. I would think it would.

4 Q. And I believe in your affidavit you
5 referenced a motion that you introduced to
6 investigate the cost and feasibility of placing
7 four additional drop boxes in secure locations
8 in downtown Cincinnati and in suburbs in the
9 west and north and east sections of Hamilton
10 County; is that correct?

11 A. That is correct, yes.

12 Q. And how did you determine -- let me
13 ask you this; could you describe for me how far
14 that process went?

15 A. I can't quite understand your
16 question. Say that again.

17 Q. So you introduced a motion, and the
18 motion passed.

19 A. Yes.

20 Q. And at some point it said that the
21 staff had begun accepting bids. Could you
22 describe for me the process that the Board or
23 the director went through to get from the point
24 of the motion passing to accepting bids?

25 A. I was not specifically familiar

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1 with the steps that they took. I know they did
2 receive bids. I saw those bids at the time.
3 They did not go the next step, which was to
4 look into the locations that I had suggested.
5 The ones -- the locations I was suggesting are
6 all government facilities, and I did that
7 because I thought that would make it easier for
8 us to make sure that we had adequate

9 surveillance, 24-hour video surveillance and
10 adequate security. And the four locations I
11 suggested were also fairly evenly distributed
12 geographically both east, west, north and
13 south. So I was trying to make it as easy and
14 feasible as possible for us to get that done.

15 We got no further than soliciting
16 and receiving bids before we received direction
17 from the secretary of state's office that we
18 should do nothing further. And at that point,
19 our director took the position that we should
20 not make any further steps to investigate the
21 feasibility of those four boxes.

22 Q. So the initial motion, the
23 location, those were suggestions that you gave;
24 is that correct?

25 A. That's correct, yes.

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1 Q. And you said they were all located
2 at some sort of government facility. Could you
3 describe what government facilities you were
4 looking at?

5 A. Well, in the case of the downtown
6 location, our county offices are downtown, our

7 county courthouse is downtown, so that was what

8 I was suggesting for the downtown location.

9 There's already security around both of these

10 buildings, they're right next to each other.

11 On the east side, I was suggesting
12 the Anderson Township administrative buildings.

13 They have a police station there as well as

14 their administration building, so that seemed

15 fairly logical; and, it's a very central

16 location out on the east side of the county.

17 In the northern portion of the
18 county, I was suggesting either the Springdale
19 city buildings, possibly the Forest Park city
20 buildings, but -- and on the west side, either
21 the City of Cheviot, or possibly Green
22 Township, although that's a little further out.
23 Cheviot seemed, to me, to make more sense.

24 So all of the places that I
25 suggested were government facilities that I

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1 thought already primarily had some security or
2 agents that we could be working with.

3 Q. And I'm going to come back to the
4 downtown location, but the east, north and west

5 locations, that was a mix of municipalities and
6 townships?

7 A. Yes.

8 Q. Okay. And would you -- would you
9 have had to negotiate any sort of memorandums
10 of understanding or any types of contracts with
11 those municipalities or townships?

12 A. I assume that would have happened
13 had we gone that next step of contacting those
14 jurisdictions. And obviously, it's a little
15 different when we're working with the County
16 because the Hamilton County Board of Elections
17 is part of the county. The other three are not
18 county, per se. But yes, we would have
19 certainly negotiated some kind of an agreement
20 with those groups.

21 Q. Okay. And your affidavit says you
22 had looked at four locations in downtown
23 Cincinnati. You mentioned the county office
24 building and the county courthouse. Were those
25 two separate locations?

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1 A. Well, they're right next to each
2 other; right across the street from each other.

3 Just -- those are the only two I was suggesting
4 in downtown. But they're literally right
5 across the street from each other.

6 Q. So everything downtown would have
7 been in one location, essentially?

8 A. Yes. Correct.

9 Q. And I think I heard you say --
10 correct me if I'm wrong -- that the -- once the
11 motion had gotten to the director, they hadn't
12 gotten to the point of selecting locations?

13 A. They -- they went the step of
14 soliciting bids from vendors, which they
15 received. They did not go the step of
16 contacting those local jurisdictions because we
17 got that directive from the secretary of state
18 relatively soon after that happened. So there
19 was relatively a brief period of time where any
20 action could occur on that before that
21 directive was issued.

22 Q. So when you -- if you know this
23 answer -- when you -- when the staff had begun
24 accepting bids, I assume there's some sort of
25 request for proposal for bids, or somehow you

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1 sent out a request asking for bids. Had you
2 come up with any type of standards for the
3 boxes you were looking for in terms of size,
4 appearance, anything like that?

5 A. I didn't have anything to do with
6 that process. I believe that was assigned to
7 our deputy director, Sally Krisel, but I was
8 not involved in the specifics of that request
9 for proposal.

10 Q. Do you know how many ballots your
11 current drop boxes hold?

12 A. I don't know the specific capacity.
13 When we get into a busy season, that box gets
14 emptied two, three times a day. I don't know
15 the maximum number of ballots it could hold.
16 It's a pretty good size box, so I would say,
17 just off the top of my head, it probably could
18 hold as many as a couple thousand, but I don't
19 know for sure.

20 Q. And you say when it starts getting
21 busy, that box gets emptied several times a
22 day?

23 A. Yes. Morning, evening and midday.
24 And if it gets busy enough, more often than
25 that.

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1 Q. And could you explain to me the
2 process of how it's emptied?

3 A. Again, we send both a Democrat and
4 Republican staff member out to the box to
5 unlock it and take the contents out and bring
6 it back outside and get it checked in as having
7 been received.

8 Q. And when you presented your motion,
9 either at that time when you presented the
10 motion or when it actually went to the pass or
11 went to the director, was there any discussion
12 about how you would staff or empty these other
13 drop boxes if they became so full that they
14 couldn't hold any more ballots?

15 A. Well, there was a little bit of
16 discussion about it, but not a great deal, and
17 nothing very specific. I think what I said was
18 that I would assume that we would be sending
19 staff people to those locations to empty them
20 on a daily basis, if not more often, depending
21 on the volume that we were receiving. But we
22 didn't really get into specifics beyond that.

23 Q. So if the -- but for the directive,

24 if you would have received these bids, is that
25 something that you would anticipate the Board

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1 would have had to vote on to accept one of
2 those bids?

3 A. Oh, yes.

4 Q. And in the last paragraph of your
5 affidavit, you stated that you believe only
6 having one drop box creates a risk to public
7 safety and a risk that voters will not be able
8 to return their absentee ballots in time to be
9 counted. And what is the basis for your
10 opinion that it would create a risk to public
11 safety?

12 A. Well, if -- speaking of what
13 happens on the 28th, if we have a significantly
14 larger volume of people trying to bring ballots
15 back as we approach November 3rd -- on November
16 3rd and maybe even the night before, I don't
17 know -- and those lines extend well out onto
18 the highway, that creates a safety risk all by
19 itself.

20 It would become difficult for us to
21 mark the end of a line that extended a mile and

22 a half down a four-lane highway. How do you do
23 that? Do you send a police car out there to
24 mark the end of the line? And we have --
25 that's not the only way you can get to the

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1 Board of Elections. There are at least three
2 or four routes that you could take using other
3 streets. Montgomery Road, which is, I believe,
4 State Route 22, goes right past the Board of
5 Elections, so you could have a line both north
6 and south down there. There's a road extending
7 over to the Hyde Park neighborhood, actually
8 Smith Road, you can have a line on that street,
9 too. So how do you mark the ends of all those
10 lines when they're way out there on the ends of
11 the streets? That's a really difficult
12 situation. And it could well be that we wind
13 up with people trying to get to the Board of
14 Elections at 7:30, and they just can't do it.
15 That's basically what I was referring to.

16 But I think the other value I see
17 in these boxes, if they're out where they are,
18 where I was suggesting, is really a timeliness
19 issue, because once the ballot is deposited in

20 that box and retrieved by our staff it is
21 considered to be in the possession of the
22 director. So that's a much quicker process
23 than putting it in the mail and waiting however
24 many days it takes for the mail to be delivered
25 to the Board of Elections. So when you get

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1 down to the tail end of this whole process,
2 that's a much faster way of getting it done
3 than putting it in the mail.

4 And then, I have a real concern
5 about mail being delivered in a timely manner.
6 We didn't have that occur in Hamilton County in
7 April. We didn't have any ballots coming in
8 beyond the 10-day window. But Butler County
9 just to our north did have ballots coming in 14
10 days, 15 days out, and ballots were being
11 discarded not through any fault of the voter;
12 they did everything they were supposed to do,
13 but the ballots simply didn't get there because
14 the post office didn't deliver it on time.

15 It's my understanding that that was even more
16 true in other counties around the state.

17 I know there was a problem in the

18 Toledo area. I've been told there was a
19 problem in Greene County, where the governor is
20 from. Maybe as many 1,500 ballots rejected
21 because they didn't arrive on time. And I
22 think, given the public climate and the talk
23 about the post office, the pressure on that
24 drop box is going to be significantly larger in
25 November.

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1 Q. And you have -- it sounds like you
2 heard about these other problems, but you don't
3 have any personal experience with Butler County
4 or Greene County or --

5 A. No. I don't have personal
6 experience, I just am aware of the reports.

7 Q. And your personal experience is in
8 Hamilton County, where you said none of the
9 ballots came in after the deadline, right?

10 A. That's correct. Yes.

11 Q. Okay. And you had mentioned the
12 post office. Well, that kind of answers
13 that -- you haven't had issues with the post
14 office in Hamilton County?

15 A. Generally not, no. We've been able

16 to work fairly well with the post office. I
17 seem to recall -- and I can't be very specific
18 about it, but we had occasional, rare instances
19 of ballots properly postmarked arriving more
20 than 10 days after election day; but, that's
21 been a relatively isolated situation in the
22 past, not something I would consider to be a
23 major problem, I just am concerned that it
24 could be this year.

25 Q. And you said you have a relatively

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1 good relationship with the post office?

2 A. Not me personally, but I know our
3 staff has been working very hard to make sure
4 they have good contacts with the post office
5 and that they're doing everything they can to
6 facilitate what needs to happen.

7 Q. And I don't know the answer to
8 this; does the post office physically deliver
9 all of the ballots to the Board of Elections,
10 or is there a process where members of the
11 board go to the post office to pick up ballots?

12 A. Well, the Norwood branch of the
13 post office is not more than, I don't know, a

14 mile down the street from our board. If I
15 understand it correctly, somebody from our
16 staff goes over to that building and picks up
17 the trays of ballots. On Tuesday of this week,
18 I think they had -- I was told they had 20
19 trays of absentee applications delivered. It
20 was a little over 12,000 applications in just
21 one day. So that's a lot. I would believe the
22 way they do it is, we send our staff people
23 over to the post office building to pick them
24 up.

25 Q. Have you had any issues with your

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1 drop boxes overflowing with absentee ballot
2 applications?

3 A. Not that I'm aware of, no.

4 Q. And can you recall any time where
5 you've had any issues with any irregularities
6 with the drop boxes at the Board of Elections?

7 A. No. I can't.

8 Q. And are you familiar with the term
9 "ballot harvesting"?

10 A. I am.

11 Q. And what is that?

12 A. Ballot harvesting would be -- I've
13 seen a few people even suggest this. And when
14 I hear them suggesting it, I make sure I tell
15 them that this is not legal. One example might
16 be encouraging members of a church to bring
17 their ballots to the church, and then one
18 member of the church would take them all down
19 to the Board of Elections at once. Or, you get
20 -- send somebody around door to door within a
21 certain neighborhood and pick them all up, and
22 then one person would be delivering them.
23 Those are just a couple of examples.

24 But legally in Ohio, the only
25 people who can deliver ballots to the Board of

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1 Elections are either the voter themselves, or
2 specified members of their family, their
3 household. So anything beyond that could be, I
4 suppose, termed to be ballot harvesting.

5 Q. Have you ever had any issues like
6 that at the Hamilton County Board of Elections
7 since you've been there?

8 A. Not that I'm aware of, no.

9 Q. Okay. Does the Board of Elections

10 have any type of educational outreach?

11 A. You mean reaching out to voters to
12 make sure they understand --

13 Q. Correct. Explaining the different
14 ways to vote and where they can vote and how to
15 vote.

16 A. Yeah. Absolutely we do. We're --
17 particularly this year, there's a rather robust
18 effort on Facebook, for example, to send out
19 information that explains all the details, the
20 deadlines and the options that voters have. We
21 also work with our local press to make sure
22 that they try and put that information out as
23 well.

24 Q. Have you been putting any emphasis
25 in your voter education about trying to make

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1 sure that you vote as early as you can?

2 A. Absolutely. Yes.

3 Q. And why would you encourage people
4 to vote earlier?

5 A. Well, for two reasons. One of them
6 just has to do with the concerns about the
7 burden on the post office. I mean, it's clear,

8 I think to everybody, that the percentage of
9 ballots that are going to be arriving as
10 absentee ballots is going to be much, much
11 higher.

12 Normally in an election in Hamilton
13 County, somewhere between 20, 25 percent of the
14 ballots come in as absentee ballots. I think
15 it could easily -- could be 50 to 60 percent,
16 if not more this time. So yeah, we have been
17 encouraging people to do that and do it as
18 promptly as possible.

19 And then, secondly, it also allows
20 us to process because the way in Ohio -- and
21 I'm glad we have this system in Ohio compared
22 to, for example, what Michigan does. As those
23 ballots are coming in, they are being reviewed
24 by a team of one Democrat and one Republican to
25 make sure that all the required information is

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1 there on the outside envelope. And once we
2 have verified that, the ballots are opened and
3 they're pushed through a scanner just like they
4 would be put through a scanner in the polling
5 place on election day. The only difference

6 being, that we don't make any count until 7:30
7 on election night. But the ability to go
8 through that process in the weeks leading up to
9 election day relieves the burden and the crunch
10 at the end right at election day.

11 We had -- in April, we had -- we
12 weren't able to produce a number -- a results
13 number until 4:30 in the morning partly because
14 we received 17,000 absentee ballots just that
15 one day through the mail and through our drop
16 box. And it took us until 4:30 in the morning
17 just to be able to process that 17,000. So the
18 more we can get processed prior to election
19 day --

20 (Video and audio froze.)

21 MR. SLIWINSKI: I think he might
22 have froze up.

23 MR. CHANDRA: So you trailed off
24 with; The more we can get processed before
25 election day --

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1 THE WITNESS: Pardon?

2 Q. You had said; The more that we can
3 get processed before election day, and then

4 your screen froze and we didn't quite catch the
5 rest of what you said.

6 A. I was just going say, the more we
7 get processed before election day the better we
8 all are because it just relieves the burden of
9 what has to happen actually on election night.

10 Q. And you had mentioned --

11 A. Just so you know, I've been having
12 a little bit of difficulty with my internet
13 connection here, so it comes and goes. Right
14 now it looks pretty strong.

15 Q. You had mentioned some concerns
16 that you might have with the post office.
17 Where do those concerns come from?

18 A. Well, that's really a product of
19 the national news, and that -- unfortunately,
20 the statements of the president himself, who
21 has cast dispersions on absentee balloting
22 through the mail. He suggested the whole thing
23 is open to fraud, which it's not. We have had
24 a lot of questions raised about the post office
25 and how those operations are being modified in

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1 terms to overtime and removal of sorting

2 equipment. So all that has planted doubt in
3 the minds of the public as to how reliable the
4 post office is.

5 It may well be true that the post
6 office is going to be able to perform well and
7 that there won't be problems, but the reality
8 is, at this stage, what has occurred already is
9 planting doubts in the minds of the public,
10 which I think is going to result in more
11 pressure on our drop box.

12 Q. And so, that's obviously where your
13 concerns come from. And just to reiterate,
14 though -- but in practice in Hamilton County,
15 it hasn't really been a problem yet? You've
16 heard some of these things in the news and
17 there's a lot of things on the news, but in
18 practice, you have not had, as a member of --
19 as long as you've been on the Board of
20 Elections in Hamilton County, you have not had
21 any actual problems with the post office?

22 A. Not that I know of, no.

23 Q. Okay.

24 MR. SLIWINSKI: I think that's all
25 that I have.

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1 I don't know if anybody's has
2 anything else?

3 MR. CHANDRA: I might. I don't
4 think so, but let's just take another
5 five-minute break, and then we'll be right
6 back. It's about 5:24 now. If we reconvene at
7 5:30, then we may just be done, or I may have a
8 handful of questions.

9 (Recess had.)

10 MR. CHANDRA: I don't have any
11 questions.

12 I just wanted to make sure you
13 understood that you have the right to read your
14 transcript and make any corrections to it that
15 you think are appropriate. Do you want to
16 assert that right, or do you want to waive
17 that?

18 THE WITNESS: I'm content to waive
19 that. I can't think of anything that I regard
20 as having been a problem.

21 MR. CHANDRA: Okay.

22 Mike, do you have anything else?

23 MR. SLIWINSKI: No, I don't.

24 Mr. Faux, thanks for -- thank you

25 for being here for your depo. I appreciate

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1 your patience with the late start, and good

2 luck in November.

3 (The deposition concluded at 5:30 p.m.)

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1 Whereupon, counsel was requested to give
2 instruction regarding the witness's review of
3 the transcript pursuant to the Civil Rules.

4

5 SIGNATURE:

6 It was agreed by and between counsel and the
7 parties that the reading and signing of the
8 transcript of said deposition, be and the same
9 is hereby waived.

10

11 TRANSCRIPT DELIVERY:

12 Counsel was requested to give instruction
13 regarding delivery date of transcript.

14

15 Sliwinski - original transcript, 3-day expedite

16

17 Kenny - copy transcript, 3-day expedite

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19 I do further certify that this
20 deposition was taken at the time and place in
21 the foregoing caption specified and was
22 completed without adjournment.

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1 I do further certify that I am not
2 a relative, counsel or attorney for either
3 party, or otherwise interested in the event of
4 this action.

5 IN WITNESS WHEREOF, I have hereunto
6 set my hand and affixed my seal of office at
7 Cleveland, Ohio, on this 14th day of
8 September, 2020.

9
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12
13 <%2208,Signature%>
14

15 _____
16 Buster Beck, Notary Public
within and for the State of Ohio

17 My commission expires February 22, 2025.

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